IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3020 of 2006
With
SPECIAL CIVIL APPLICATION No. 3021 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

MEENABEN HARISHBHAI CHANDARIYA - Petitioner(s)

Versus

STATE OF GUJARAT & 3 - Respondent(s)

==========

Appearance :
MR ASIT B JOSHI for Petitioner(s) : 1,
MR. PRACHCHHAK, ASST. GOVERNMENT PLEADER for Respondent(s) : 1-4.

==========

CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 24/02/2006

COMMON ORAL JUDGMENT

1.Rule. Shri Prachchhak, learned AGP waives service of rule on behalf of the respondents.

2.With the consent of the parties, the matters are taken

up for final hearing today.

3. As common question of law and facts arises in both these petitions, they are being disposed of by this common judgment.

4. By way of these petitions under Article 226 of the Constitution of India, the respective petitioners have challenged the legality and validity of the orders passed by the Deputy Collector, Stamp Duty Valuation, Jamnagar dated 22.5.2001 passed under Section 32(A) of the Bombay Stamp Act by which the petitioners are directed to pay the deficit stamp duty of Rs.52,970/- plus Rs.250/- by way of penalty in all Rs.53,220/- with respect to the document Nos.5855 and 5856 dated 11.7.2000 presented before the Sub-Registrar, Jamnagar as well as the communication by the Deputy Collector, Stamp Duty Valuation, Jamnagar dated 2.12.2005 in filing their applications for references under Section 32(B) of the Bombay Stamp Act on the ground that the same are preferred after the period of 90 days.

5. It is the contentions on behalf of the respective petitioners that in fact, they were not aware of the impugned orders passed by the Deputy Collector, Stamp

Duty Valuation, dated 22.5.2001 and the said orders were not served upon them till 14th March, 2005 and for the first time, they received the copies of the said orders on 14th March, 2005 and immediately on receipt of the same, they preferred appeals before the Chief Revenue Controlling Authority, State of Gujarat, under Section 32(B) of the Act on 19th March, 2005. Thus, according to them, the appeals before the Chief Revenue Controlling Authority are within the prescribed time limit as they were filed within 90 days of the date of knowledge of the orders and from the date of receipt of the orders. It is submitted that the said aspect has not been considered by the Deputy Collector, Stamp Duty Valuation, Jamnagar when they filed their applications for reference under Section 32(B) of the Act. It is further submitted by them that in fact, it is for the Chief Revenue Controlling Authority, State of Gujarat, to take an appropriate decision on their applications for condonation of delay and there is no decision taken by the Chief Revenue Controlling Authority. Under the circumstances, the Chief Revenue Controlling Authority is directed to consider their applications for condonation of delay in accordance with law and on merits and to consider their submissions that the

orders dated 22.5.2001 were not served upon the petitioners till 14th March, 2005 and the same may be verified from calling the Records & Proceedings from the Deputy Collector, Stamp Duty Valuation, Jamnagar who has passed the impugned orders dated 22.5.2001 and to confirm and/or verify whether in fact, the orders dated 22.5.2001 were served upon the petitioners prior to 14th March, 2005 or not and if ultimately it is found that the impugned orders dated 22.5.2001 were not served upon the petitioners till 14th March, 2005, the appeals may be decided in accordance with law and on merits subject to compliance with the requirements as required to be complied with under Section 32(B) of the Bombay Stamp Act such as pre-deposit, etc. However, it is made clear that this Court has not expressed any opinion on the merits with regard to condonation of delay and/or any other observations that the appeals are within the period of limitation or not. It is, ultimately, for the Chief Revenue Controlling Authority to take an appropriate decision in accordance with law and on merits after considering the Records & Proceedings from the Deputy Collector, Stamp Duty Valuation, Jamnagar as to whether the impugned orders dated 22.5.2001 were served upon the petitioners prior

to 14th March, 2005 or not and the said decision may be taken without in any way being influenced by the communication dated 2.12.2005 by the Deputy Collector, Stamp Duty Valuation, Jamnagar. The said decision may be taken as stated above as early as possible preferably within a period of 2 months from the date of receipt of this order and shall communicate the outcome of the same to the petitioners accordingly and immediately.

6. With these observations and direction, the present Special Civil Applications are disposed of. Rule, in both the petitions, discharged. However, there will be no order as to costs in any of the petitions.

(M.R.SHAH, J.)

kdc.